

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

OP.No. 23832 of 2002(K)

PETITIONER:

P.P. MOHAMMED, PERFECT WOODS,
MUNNIYOOR P.O., MALAPPURAM.

BY ADV. SRI.SIBY MATHEW

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, FOREST DEPARTMENT (B),
SECRETARIAT, TRIVANDRUM.
2. CIRCLE CONSERVATOR OF FORESTS,
HIGH RANGE, KOTTYAM.
3. DIVISIONAL FOREST OFFICER,
KOTTAYAM DIVISION, KOTTAYAM.
4. FOREST RANGE OFFICER, ERUMELI.

BY GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 23/11/2007, THE COURT ON 23/11/2007 DELIVERED THE
FOLLOWING:

ORDER ON CMP NO.40532/2002 IN O.P. 23832/2002

DISMISSED:

23.11.2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE JUDGMENT IN WA NO.1450/1999 DT.5.8.99 OF THIS HON'BLE COURT.

P2: TRUE COPY OF THE ORDER ISSUED BY R4 DT.28.3.2000.

P3: TRUE COPY OF THE ORDER NO.7060/2000 DT.21.5.01 ISSUED BY R2.

P4: TRUE COPY OF THE JUDGMENT IN O.P. NO.22543/2001 DT.31.7.2001 OF THIS HON'BLE COURT.

P5: TRUE COPY OF NOTICE DT.1.7.2002 BY R1.

P6: TRUE COPY OF ORDER DT.23.7.2002 ISSUED BY R2.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
O.P. No.23832 of 2002
.....

Dated this the 23rd day of November, 2007.

JUDGMENT

The petitioner is challenging compensation demanded by the Forest Department towards loss sustained on resale of teak poles after petitioner failed to lift the same on payment of balance sale consideration. Counsel for the petitioner contended that petitioner could not lift the materials on account of labour strike. Government Pleader on the other hand submitted that inspite of Police protection obtained by the petitioner vide Ext.P1 judgment, petitioner refused to lift the materials and is therefore liable to pay the differential cost being the loss suffered by the Government after resale. The entire case of the petitioner is covered by Ext.P1 judgment of the Division Bench. It is clear from Ext.P1 that even though there was dispute between labour Unions in the Mundakkayam area and Erumeli area as to who should do the loading work. this court vide Ext.P1 held that pending final decision by the appellate authority the petitioner is entitled to Police protection for removal of timber with their own employees. The petitioner has not stated as to why he could not lift the materials with his employees with Police assistance in terms of the judgment. Therefore, the

failure to lift the materials is not attributable to the respondents as claimed by the petitioner. So far as the amount of compensation is concerned, the petitioner has no case that it is not the difference between the sale price payable by the petitioner and the price obtained on resale after petitioner failed to lift the materials. In the circumstances, O.P. fails and is dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms